



BALLOT**PEDIA**

UNFUNDED MANDATES

**CONCEPTS FOR UNDERSTANDING
AMERICAN FEDERALISM**

June 2024

Unfunded mandates: Concepts for understanding American federalism

Summary

Unfunded mandates are an important concept for understanding American federalism. Unfunded mandates are regulations or other requirements imposed by a higher level of government on a lower one without accompanying funding to cover the costs of compliance. The dynamics of such regulation and funding are important for understanding America's intergovernmental relationships within the federalism framework, where power is divided between member units and a common governing authority.

By the end of this reading, you will have an understanding of the following concepts:

- What is an unfunded mandate?
- What is the Unfunded Mandates Reform Act?
- Unfunded mandates by the numbers

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Unfunded mandates: Concepts for understanding American federalism

What is an unfunded mandate?

The term unfunded mandates refers to regulations or other requirements that a higher level of government imposes on a lower government without accompanying appropriations to cover the cost of compliance.

For example, some local school boards have frequently argued that certain education-related laws and regulations imposed by state and federal bodies are unfunded mandates. The actual costs of such mandates to schools are difficult to estimate, but they often demand more time from school administrators and teachers to maintain compliance.

Examples of unfunded mandates

Although policymakers, experts, and implementers may disagree on the compliance costs associated with regulations and may support different definitions of the word *mandate*, the following federal laws are frequently cited as examples of unfunded mandates:

- **The No Child Left Behind Act**: This law increased certain student testing and reporting requirements. It required states to develop standardized tests and administer such standardized assessments to all students at certain grade levels in order to receive federal education funding. It also, in many cases, required states to spend additional money on school improvements (like teacher training) to continue receiving federal funding.
- **The Clean Air Act**: This law established national air quality standards for certain air pollutants. States had to enact implementation plans outlining enforceable, source-specific emissions limits for the pollutants identified in the legislation. States were then responsible for enforcing those plans and cutting emissions without the assistance of federal grants.
- **Medicaid**: Although state participation in Medicaid is technically optional, the program established a system in which the federal government is responsible for paying half of each state's Medicaid expenses, and participating state governments have to pay the remaining half. Consequently, when the federal government expands Medicaid spending, states have to pay more to support the program as well.

What is the Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act (UMRA) of 1995 is a federal law that seeks to restrict the national government's ability to regulate state, local, and business activities without paying for increased costs associated with compliance. President Bill Clinton (D) signed the UMRA into law on March 22, 1995.

Background and objectives

Local government and business entities expressed growing dissatisfaction during the 1970s and 1980s with the increase in unfunded federal mandates imposed on local governments and the private sector during the period, according to the Congressional Research Service. A 2016 Forbes report identified a total of 241 mandates or preemptions imposed on state and local governments between 1955 and 1995, 45 percent of which were enacted between 1985 and 1995. These mandates imposed new standards, requirements, and regulations for landfills, wastewater treatment, drinking water, stormwater, and compliance with the Americans with Disabilities Act, among other provisions.

Local government and business advocates at the time called for new policies to curb the financial costs and resulting inefficiencies of complying with unfunded mandates associated with new federal laws and agency regulations.

The Unfunded Mandates Reform Act (UMRA) was crafted with the intention of minimizing the imposition of unfunded federal mandates on businesses and state, local, and tribal governments, as well as improving communication and collaboration between the various levels of government and business groups.

What does the UMRA do?

The legislation restricts the national government's ability to pass certain laws that establish unfunded mandates. To accomplish this, the UMRA:

- Requires the Congressional Budget Office to estimate the direct costs of intergovernmental mandates exceeding \$50 million (adjusted for inflation) and of private-sector mandates upwards of \$100 million in any proposed legislation reported from committees.
- Prohibits the consideration of legislation containing intergovernmental mandates with costs estimated to exceed the threshold amounts.
- Requires federal administrative agencies, except for independent federal agencies, to estimate the impact on businesses and state and local governments of any proposed and final rules and to prepare written statements of estimated costs and benefits for mandates exceeding \$100 million a year, with certain exceptions.

Scholarly analysis

The enactment of the UMRA has resulted in mixed outcomes, according to various scholars. Robert Jay Digler of the Congressional Research Service (CRS), in a 2018 analysis of the law, described what supporters of the legislation consider to be the positive effects of its implementation and continued areas for improvement:

“State and local government officials and federalism scholars generally view UMRA as having a limited, though positive, impact on intergovernmental relations. In their view, the federal government has continued to expand its authority through the 'carrots' of increased federal assistance and the 'sticks' of grant conditions, preemptions, mandates, and administrative rulemaking. Facing what they view as a seemingly ever growing federal influence in American governance, they generally advocate a broadening of UMRA's coverage to enhance its impact, emphasizing the need to include conditions of grant assistance and a broader range of federal agency rulemaking, including rules issued by independent regulatory agencies.”

Theresa Gullo of the Congressional Budget Office (CBO) made similar observations about the positive impacts of the law on information sharing in a 2004 article for the *National Tax Journal*:

“Since UMRA's enactment, the quantity of detailed information provided to the Congress about federal mandates has increased. Furthermore, that information played a prominent role in the Congressional debate over several important intergovernmental issues.”

Gullo also echoed Digler's observation that many state and local government officials equate certain federal grant conditions with unfunded mandates and support expanding the law to include these provisions:

“UMRA's success is tempered in some observers' view, however, by the fact that the law omits certain types of requirements—many that state and local governments find onerous—from its provisions. Specifically critics charge that:

- Conditions for obtaining federal grants, even new conditions on existing grant programs, are generally not considered to be mandates;
- Certain types of provisions, some with very significant impacts on other levels of government, are specifically excluded from all of UMRA's requirements; and,
- Mandates with total costs below the statutory thresholds are not subject to the points of order, even if those mandates severely restrict state and local authority.

These limitations, critics argue, mean that the Congress has continued to enact legislation that has significant impacts on state and local government budgets.”

Unfunded mandates by the numbers

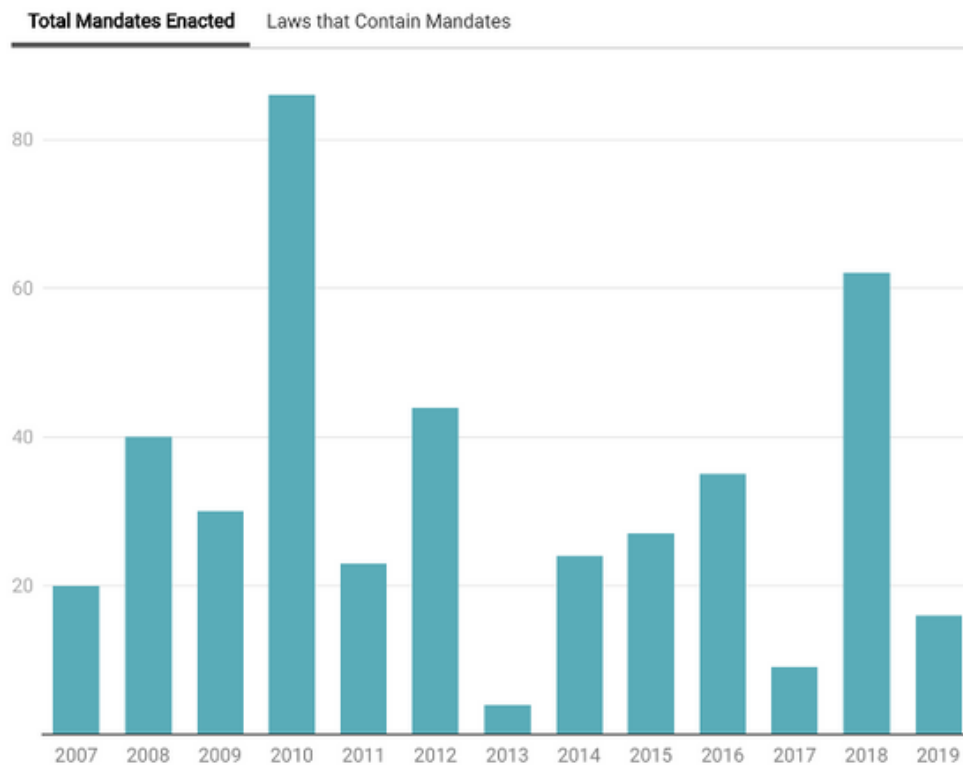
Governments can issue unfunded mandates that affect lower governments or private businesses. Here, we're going to focus on intergovernmental mandates. For more information on private mandates, [click here](#).

Total number of intergovernmental mandates enacted between 2007 and 2019

The following chart and table show the total number of intergovernmental mandates (funded and unfunded) enacted each year between 2007 and 2019. There have been a total of 420 mandates enacted within 190 laws.

Total number of intergovernmental mandates enacted between 2007 and 2019

There have been a total of 190 laws with 420 mandates enacted between 2007 and 2019



Source: Congressional Budget Office

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Total number of intergovernmental mandates enacted between 2007 and 2019

There have been a total of 190 laws with 420 mandates enacted between 2007 and 2019.

Year	Total Mandates Enacted	Laws that Contain Mandates
2007	20	14
2008	40	19
2009	30	18
2010	86	29
2011	23	12
2012	44	16
2013	4	3
2014	24	16
2015	27	10
2016	35	17
2017	9	6
2018	62	25
2019	16	5
	420	190

Source: Congressional Budget Office

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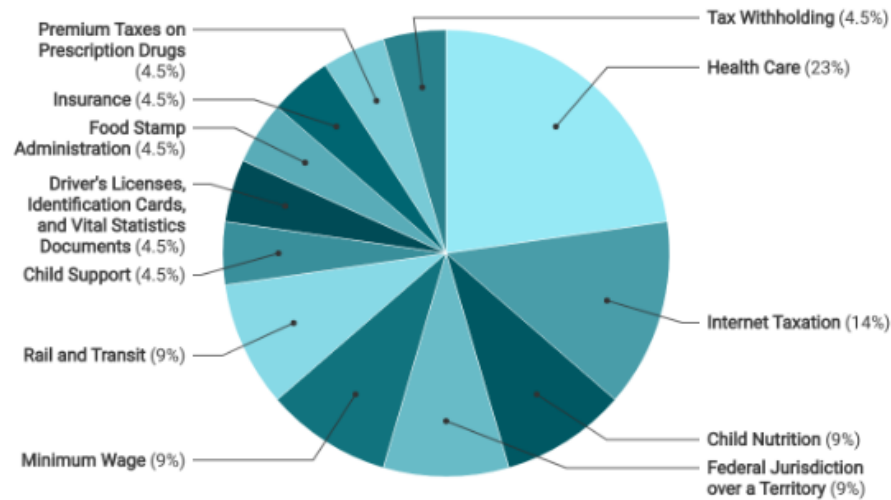
Total number of intergovernmental mandates enacted between 1996 and 2019 that exceed the Unfunded Mandates Reform Act's statutory threshold

Even though the UMRA prohibits the enactment of certain laws that impose a cost exceeding a certain inflation-adjusted threshold on a lower government, some mandates that impose a cost exceeding the statutory limit are still enacted from time to time. The UMRA does not cover all types of provisions. Likewise, laws that exceed the statutory limit are not discarded automatically. A member of Congress must raise an objection to the unfunded provision, which can still move forward with support from a sufficient legislative majority.

The following charts show the total number of intergovernmental mandates enacted between 1996 and 2019 that exceed the statutory threshold according to the topic of the mandate. The statutory threshold for intergovernmental mandates was \$50 million in 1996 and \$82 million in 2019. The limit is adjusted for inflation annually.

Total number of intergovernmental mandates enacted that exceeded the statutory threshold between 1996 and 2019

The statutory threshold is intergovernmental mandates enacted that exceed \$50 million annually.



Source: Congressional Budget Office

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Total number of intergovernmental mandates enacted that exceed \$50 million annually between 1996 and 2019

Topic	Number of Mandates	Corresponding Statutes
Child Nutrition	2	Public Law 111-296
Child Support	1	Public Law 109-171
Driver's Licenses, Identification Cards, and Vital Statistics Documents	1	Public Law 108-458
Federal Jurisdiction over a Territory	2	Public Law 114-187
Food Stamp Administration	1	Public Law 105-185
Health Care	5	Public Law 111-148
Insurance	1	Public Law 116-94
Internet Taxation	3	Public Law 108-435; 110-108; 114-125
Minimum Wage	2	Public Law 104-188; 110-28
Premium Taxes on Prescription Drugs	1	Public Law 108-173
Rail and Transit	2	Public Law 110-53; 110-432
Tax Withholding	1	Public Law 109-222

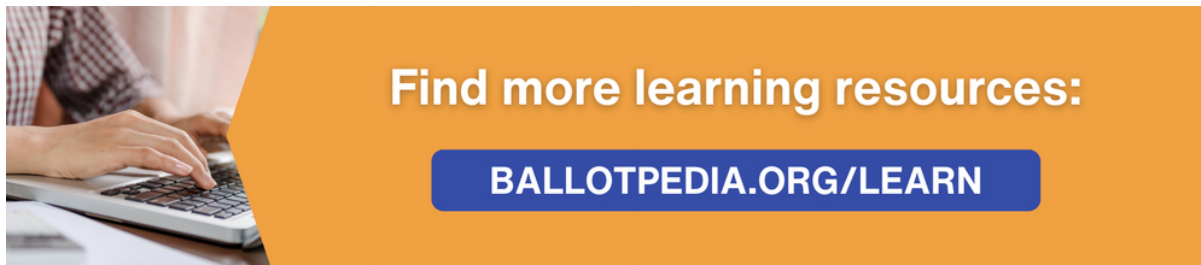
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Continued reading:

Thank you for downloading our PDF on Unfunded Mandates.

Check out the following Ballotpedia pages to dive deeper into the key concepts of this report:

- [Unfunded mandates](#)
- [Unfunded Mandates Reform Act](#)
- [Private mandates](#)
- [Federalism](#)
- [Federalism by the numbers](#)
- [Clean Air Act](#)
- [Medicaid](#)
- [No Child Left Behind Act](#)



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